



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves the Dale Defendants’ letter motion at Dkt. 704 to compel Hedgeye to remove Attorney’s-Eyes-Only (“AEO”) designations from portions of two briefs prepared by the Dale Defendants so that the Dale Defendants can show those currently redacted passages to their clients. Hedgeye opposes the motion. (See Dkt. 705.)

The AEO designation as applied to the material at issue is overly broad. Much of what Hedgeye designates as AEO is either (1) information that has been filed on the public record without objection, particularly Hedgeye’s responses to requests for admission at Dkt. 463-1, or (2) legal argument or expert opinion that does not itself reveal anything that would legitimately warrant AEO protection. Accordingly, the application is granted in part and denied in part.

Specifically, the material designated as AEO in the Lacalle *Daubert* motion shall be de-designated as such. As for the Dale Defendants’ summary judgment brief, the material designated as AEO shall be de-designated as such, except that the following material may remain designated as AEO:

- p.10-11: starting at the beginning of the third line from the bottom of page 10 (following the previous line's "by a factor of") through the end of the second to last sentence on page 11 (ending before the sentence beginning "The Rule 56.1 Statement ...").
- p. 11: first full paragraph, first sentence, following the word "Moreover," through the end of the second sentence (ending with the words "wants to be").
- p. 11: first full paragraph, last two words of the final sentence (after the word "available").
- p.11-12: starting with the beginning of the last sentence carrying over to page 12 (starting with the words "When they") through the end of the paragraph carrying over to page 12 (ending with the cite to "(56.1 ¶ 2-275)").
- p. 23: second bullet at the bottom, only the file names.
- p. 24: first full bullet, only the file names and the word following "double-check."

This order does not address the extent to which any of the material for which the AEO designation shall be removed qualifies or does not qualify for a lower level of protection. For present purposes, this order addresses only whether material can or cannot be seen by the Dale Defendants.

The Clerk of Court is respectfully directed to terminate the letter motion at Dkt. 704.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: November 5, 2024
New York, New York

Copies transmitted this date to all counsel of record.